

Message Text

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64

ORIGIN L-03

INFO OCT-01 ARA-16 ISO-00 OPIC-12 EB-11 INT-08 OMB-01

TRSE-00 COME-00 CIAE-00 INR-10 NSAE-00 RSC-01 /063 R

DRAFTED BY L/ARA:TABOREK/DAGANTZ:BJD

APPROVED BY ARA/BC:JEKARKASHIAN

ARA/BC/B:JRBINNS (DRAFT)

OPIC:GCOOPER (INFO)

----- 051076

R 221844Z JAN 74

FM SECSTATE WASHDC

TO AMEMBASSY LA PAZ

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E.O. 11652:N/A

TAGS: EMIN, BL

SUBJECT: IMPC

1. IMPC PRESIDENT TYE'S CLAIM THAT GOB HAS FAILED TO FULFILL LEGAL OBLIGATION TO IMPC WITH RESPECT TO FULL IMPLEMENTATION OF EMBOSA JOINT VENTURE AGREEMENT IS NOT FULLY PERSUASIVE. ON BASIS DOCUMENTS AVAILABLE TO US, ACTIONS TAKEN BY COMIBOL WITH RESPECT TO DISSOLUTION, ETC., SEEM TO BE CONSISTENT WITH TERMS OF JOINT VENTURE AGREEMENT; IN ANY EVENT THERE APPEARS TO BE NO OBVIOUS VIOLATION OF TERMS OF AGREEMENT BY COMIBOL. MOREOVER, IMPC HAS APPARENTLY CHOSEN NOT TO SEEK ARBITRATION OF DISPUTE IN ACCORDANCE WITH ARTICLE 41 OF AGREEMENT (THOUGH TYE INDICATED RECENTLY HIS ATTORNEY MAY HAVE REQUESTED IT), NOR PURSUED TO DATE ANY OTHER REMEDIES THAT MIGHT BE AVAILABLE TO IT IN BOLIVIA.

2. NEVERTHELESS, DEPARTMENT CONCERNED THAT CONTINUED RELUCTANCE OF GOB TO DISCUSS MATTER WITH TYE MAY LEND CREDENCE TO ALLEGATIONS OF GOB "BAD FAITH" IN CONNECTION WITH JOINT VENTURE DEAL. CONSEQUENTLY, AND IF EMBASSY

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PERCEIVES NO OBJECTION, DEPARTMENT REQUESTS THAT YOU

APPROACH MINISTRY OF MINES ONCE MORE, POINTING OUT THAT WHILE USG TAKES NO POSITION ON MERITS OF CONTROVERSY, WE ARE CONCERNED THAT OUTSTANDING DIFFERENCES BE SETTLED TO SATISFACTION OF BOTH PARTIES, AND SUGGESTING FURTHER DISCUSSIONS BETWEEN APPROPRIATE OFFICIALS OF MINISTRY AND TYE AS POSSIBLE DEVICE FOR RESOLVING MISUNDERSTANDINGS.

3. FYI. IF HE HAS NOT ALREADY DONE SO, WE PLAN TO SUGGEST TO TYE THAT HE SEEK ARBITRATION UNDER TERMS OF ARTICLE 41 OF AGREEMENT, EVEN THOUGH TIME PERMITTED MAY HAVE LAPSED. IF HE EXPRESSES INTEREST IN PURSUING MATTER WE WOULD RECOMMEND YOU ENCOURAGE GOB TO GIVE FAVORABLE CONSIDERATION TO THIS APPROACH. END FYI. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ARBITRATION, MINING INDUSTRY, JOINT VENTURES, GOVERNMENT CORPORATIONS, CONTRACTS, TRADE COMPLAINTS
Control Number: n/a
Copy: SINGLE
Draft Date: 22 JAN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE013783
Document Source: CORE
Document Unique ID: 00
Drafter: TABOREK/DAGANTZ:BJD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740124/aaaaawhi.tel
Line Count: 74
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 09 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 SEP 2002 by kelleyw0>; APPROVED <10-Sep-2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: IMPC
TAGS: EMIN, BL, IMPC
To: LA PAZ
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005